



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4812 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

SOUTH TEAS RADIOLOGY GROUP  
PO BOX 29407  
SAN ANTONIO, TX 78229-5907

#### **Respondent Name**

INDEMNITY INSURANCE CO OF NORTH AMERICA

#### **Carrier's Austin Representative Box**

Box Number 15

#### **MFDR Tracking Number**

M4-12-2401-01

#### **MFDR Date Received**

MARCH 19, 2012

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "We originally filed bills with MSIG for services performed on the patient. We became aware that we billed the wrong insurance on 08/12/2011 and subsequently billed the correct insurance within 95 days...4/22/2011 Our Claim was returned by MSIG. It stated we need to send to correct carrier."

**Amount in Dispute:** \$627.50

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Requestor was notified on April 22, 2011 that MSIG was not the correct carrier, as outlined on Respondent's Attachment A. In accordance with Section 408.0272 (c), requestor has 95 days to submit the bill to the proper carrier. The deadline to submit the bill to Respondent was July 26, 2011. As outlined on Requestor's Exhibit A, Requestor billed Respondent on August 12, 2011, well past the 95-day deadline."

**Response Submitted by:** Burns Anderson Jury & Brenner, L.L.P., P.O. Box 26300, Austin, TX 78755-0300

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 4, 2011	73221	\$627.50	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.

4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:  
Explanation of benefits dated September 7, 2011
  - 563-022 – Based on Fee Schedule Guidelines, bills submitted after the 95<sup>th</sup> day after the date of service are disallowed.
  - B4- Late filing penalty.

### **Issues**

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?

### **Findings**

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided.” Texas Labor Code §408.0272(c) states, “Notwithstanding Subsection (b), a healthcare provider who erroneously submits a claim for payment to an entity described by Subdivision (1) of that subsection forfeits the provider’s right to reimbursement for that claim if the provider fails to submit the claim to the correct workers’ compensation insurance carrier within 95 days after the date the provider is notified of the provider’s erroneous submission of the claim.” A review of the requestor’s documentation finds a position statement (Attachment A), which states that on April 22, 2011 their claim was returned by MSIG and stated that they needed to send to the correct carrier. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the requestor was notified of their erroneous submission of their claim.
2. 28 Texas Administrative Code §102.4(h) states that “Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.” Review of the requestor’s position statement (Attachment A) states that they billed the correct insurance carrier on August 12, 2011. This date is more than 95 days from the date the requestor was notified of their erroneous submission. Therefore, pursuant to Texas Labor Code 408.0272 (c), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

### **Conclusion**

For the reasons stated above, the division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

01/11/2013  
\_\_\_\_\_  
Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**